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ORIGINAL FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

SEP 04 2013

John A. Clarke, Executive Officer/Clerk  
By Amber Hayes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

12 SHEFA LMV, LLC, a California Limited ) Unlimited Jurisdiction  
Liability Company, )  
13 )  
Plaintiff, ) CASE NO.: BC520410  
14 )  
15 vs. ) COMPLAINT FOR CIVIL  
PENALTY AND INJUNCTIVE  
16 ) RELIEF  
)  
17 TARGET CORPORATION, a Minnesota ) (Health and Safety Code § 25249.5  
Corporation; E.T. BROWNE DRUG CO., INC., ) et seq. and Business and Professions  
18 a New Jersey Corporation; and DOES 1 – 25, ) Code § 17200)  
Inclusive, )  
19 ) TOXIC TORT/ENVIRONMENTAL  
20 Defendants. )

By Fax

21 Plaintiff, Shefa LMV, LLC, hereby alleges:

22 **I. PRELIMINARY STATEMENT**

23 1. This complaint seeks to remedy the failure of Defendant to warn persons of exposure to  
24 lead, which is a chemical known to the State of California to cause birth defects, or other reproductive  
25 harm. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Cal. Health & Safety Code  
26 section 25249.6, also known as "Proposition 65," businesses must provide persons with a "clear and  
27 reasonable warning" before exposing individuals to chemicals known to the state to cause cancer or  
28 reproductive harm.

1 **II. PARTIES**

2 3. Plaintiff, Shefa LMV, LLC (“Plaintiff”) is made up of citizens of the State of California,  
3 by and through its counsel of record, the Law Office of Daniel N. Greenbaum. Health and Safety Code  
4 section 25249.7(d) provides that actions to enforce Proposition 65 may be brought by “any person in the  
5 public interest.”

6 4. Defendant TARGET CORPORATION (hereinafter “TARGET”) is a business entity with  
7 ten or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
8 distribution, or sale of soap and shampoo products under the brand name “TARGET” and other brand  
9 names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
10 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

11 5. Defendant E.T. BROWNE DRUG CO. (hereinafter “E.T. BROWNE”) is a business entity  
12 with ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
13 manufacture, distribution, or sale of soap and shampoo products under the brand name “Palmer’s” and  
14 other brand names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
15 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

16 6. The identities of DOES 1 through 25 are unknown to Plaintiff at this time; however,  
17 Plaintiff suspects that they are business entities with at least ten or more employees that have  
18 manufactured, distributed, or sold shampoo products under the brand name “Target,” or “Palmer’s” or  
19 other brand names, that contain Cocamide DEA, for sale within the State of California, without first  
20 giving clear and reasonable warning.

21 **III. JURISDICTION AND VENUE**

22 7. This Court has jurisdiction pursuant to California Constitution Article VI, section 10,  
23 because this case is a cause not given by statute to other trial courts.

24 8. This Court has jurisdiction over Defendants, because they are business entities that do  
25 sufficient business, have sufficient minimum contacts in California, or otherwise intentionally avail  
26 themselves of the California market, through the sale, marketing, and use of its products in California, to  
27 render the exercise of jurisdiction over it by the California courts consistent with traditional notions of  
28 fair play and substantial justice.

1 9. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles  
2 County because Defendant's products are sold and consumed in this county.

#### 3 **IV. STATUTORY BACKGROUND**

##### 4 **A. Proposition 65**

5 10. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute  
6 passed as "Proposition 65" by a vote of the people in November of 1986.

7 11. The warning requirement of Proposition 65 is contained in Health and Safety Code section  
8 25249.6, which provides:

9 No person in the course of doing business shall knowingly and  
10 intentionally expose any individual to a chemical known to the state to  
11 cause cancer or reproductive toxicity without first giving clear and  
12 reasonable warning to such individual, except as provided in Section  
13 25249.10.

14 12. An exposure to a chemical in a consumer product is one "which results from a person's  
15 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or  
16 any exposure that results from receiving a consumer service." (Cal. Code Regs., tit. 22, § 12601, subd.  
17 (b).)

18 13. Proposition 65 establishes a procedure by which the state is to develop a list of chemicals  
19 "known to the State to cause cancer or reproductive toxicity." (Health & Saf. Code, § 25249.8.)

20 14. No warning need be given concerning a listed chemical until one year after the chemical  
21 first appears on the list. (Id., § 25249.10, subd. (b).)

22 15. Any person "violating or threatening to violate" the statute may be enjoined in any court  
23 of competent jurisdiction. (Health & Saf. Code, § 25249.7.)

24 16. To "threaten to violate" is defined to mean "to create a condition in which there is a  
25 substantial probability that a violation will occur." (Id., § 25249.11, subd. (e).)

26 17. In addition, violators are liable for civil penalties of up to \$2,500 per day for each  
27 violation, recoverable in a civil action. (Id., § 25249.7, subd. (b).)

28





1 California to cause cancer or reproductive toxicity without first giving clear and reasonable warning to  
2 such individuals, within the meaning of Health and Safety Code section 25249.6.

3 38. Said violations render Defendant liable to Plaintiffs for civil penalties not to exceed  
4 \$2,500 per day for each violation, as well as other remedies, such as injunctive relief forcing  
5 reformulation of the product.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff prays that the Court:

- 8 1. Pursuant to the First Cause of Action, grant civil penalties according to proof;
- 9 2. Pursuant to Cal. Health & Safety Code section 25249.7, enter such temporary  
10 restraining orders, preliminary injunctions, permanent injunctions, or other orders  
11 prohibiting Defendants from exposing persons within the State of California to Listed  
12 Chemicals caused by the use of their products without providing clear and reasonable  
13 warnings, as Plaintiff shall specify in further application to the court;
- 14 3. Award Plaintiff its costs of suit;
- 15 4. Grant such other and further relief as the court deems just and proper.

16  
17 Respectfully submitted,

18 DATED: September 24, 2013

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21 By: DANIEL N. GREENBAUM  
22 Attorney for Plaintiff  
23 Shefa LMV, LLC  
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